



February 20, 2004

ENGROSSED SENATE BILL No. 484

DIGEST OF SB 484 (Updated February 18, 2004 11:54 am - DI 97)

Citations Affected: IC 6-3; IC 6-3.1; IC 27-8; noncode.

Synopsis: Health insurance tax credits and conversion policies. Allows certain employers to take a tax credit related to making a health benefit plan available to the employers' employees. Provides that an eligible employee's dependent who loses coverage under a small employer group health insurance plan under certain circumstances may be entitled to a conversion policy.

Effective: July 1, 2004.

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(HOUSE SPONSORS — AUSTIN, RIPLEY)

January 13, 2004, read first time and referred to Committee on Health and Provider Services.

January 29, 2004, reported favorably — Do Pass.

February 3, 2004, read second time, ordered engrossed. Engrossed.

February 4, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 6, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 19, 2004, amended, reported — Do Pass; recommitted to Committee on Ways and Means.

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ES 484—LS 7187/DI 97+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 484

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted
4 gross income" shall mean the following:

5 (a) In the case of all individuals, "adjusted gross income" (as
6 defined in Section 62 of the Internal Revenue Code), modified as
7 follows:

8 (1) Subtract income that is exempt from taxation under this article
9 by the Constitution and statutes of the United States.

10 (2) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 62 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States.

14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
15 joint return filed by a husband and wife, subtract for each spouse
16 one thousand dollars (\$1,000).

17 (4) Subtract one thousand dollars (\$1,000) for:

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- 1 (A) each of the exemptions provided by Section 151(c) of the
2 Internal Revenue Code;
3 (B) each additional amount allowable under Section 63(f) of
4 the Internal Revenue Code; and
5 (C) the spouse of the taxpayer if a separate return is made by
6 the taxpayer and if the spouse, for the calendar year in which
7 the taxable year of the taxpayer begins, has no gross income
8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
10 (A) one thousand five hundred dollars (\$1,500) for each of the
11 exemptions allowed under Section 151(c)(1)(B) of the Internal
12 Revenue Code for taxable years beginning after December 31,
13 1996; and
14 (B) five hundred dollars (\$500) for each additional amount
15 allowable under Section 63(f)(1) of the Internal Revenue Code
16 if the adjusted gross income of the taxpayer, or the taxpayer
17 and the taxpayer's spouse in the case of a joint return, is less
18 than forty thousand dollars (\$40,000).
19 This amount is in addition to the amount subtracted under
20 subdivision (4).
21 (6) Subtract an amount equal to the lesser of:
22 (A) that part of the individual's adjusted gross income (as
23 defined in Section 62 of the Internal Revenue Code) for that
24 taxable year that is subject to a tax that is imposed by a
25 political subdivision of another state and that is imposed on or
26 measured by income; or
27 (B) two thousand dollars (\$2,000).
28 (7) Add an amount equal to the total capital gain portion of a
29 lump sum distribution (as defined in Section 402(e)(4)(D) of the
30 Internal Revenue Code) if the lump sum distribution is received
31 by the individual during the taxable year and if the capital gain
32 portion of the distribution is taxed in the manner provided in
33 Section 402 of the Internal Revenue Code.
34 (8) Subtract any amounts included in federal adjusted gross
35 income under Section 111 of the Internal Revenue Code as a
36 recovery of items previously deducted as an itemized deduction
37 from adjusted gross income.
38 (9) Subtract any amounts included in federal adjusted gross
39 income under the Internal Revenue Code which amounts were
40 received by the individual as supplemental railroad retirement
41 annuities under 45 U.S.C. 231 and which are not deductible under
42 subdivision (1).

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(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable

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under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

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(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

(1) employs at least ten (10) full-time employees who are located in Indiana; and

(2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal

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Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or

(2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means:

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- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has state tax liability; and
- (2) employs at least ten (10) full-time employees who are located in Indiana.

Sec. 9. (a) An eligible taxpayer that, after December 31, 2004, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

(b) The credit allowed under this chapter equals the lesser of:

- (1) two thousand five hundred dollars (\$2,500); or
- (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

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1 **Sec. 11. (a)** If the amount determined under section 9 of this
 2 chapter for a taxpayer in a taxable year exceeds the taxpayer's
 3 state tax liability for that taxable year, the taxpayer may carry the
 4 excess over to the following taxable years. The amount of the credit
 5 carryover from a taxable year shall be reduced to the extent that
 6 the carryover is used by the taxpayer to obtain a credit under this
 7 chapter for any subsequent taxable year. A taxpayer is not entitled
 8 to a carryback.

9 **(b)** A taxpayer is not entitled to a refund of any unused credit.

10 **Sec. 12.** If a pass through entity does not have state income tax
 11 liability against which the tax credit may be applied, a shareholder
 12 or partner of the pass through entity is entitled to a tax credit equal
 13 to:

14 (1) the tax credit determined for the pass through entity for
 15 the taxable year; multiplied by

16 (2) the percentage of the pass through entity's distributive
 17 income to which the shareholder or partner is entitled.

18 **Sec. 13.** To receive the credit provided by this chapter, a
 19 taxpayer must claim the credit on the taxpayer's state tax return
 20 or returns in the manner prescribed by the department. The
 21 taxpayer must submit to the department all information that the
 22 department determines is necessary to calculate the credit
 23 provided by this chapter and to determine the taxpayer's eligibility
 24 for the credit.

25 **Sec. 14. (a)** A taxpayer claiming a credit under this chapter shall
 26 continue to make health insurance available to the taxpayer's
 27 employees through a health benefit plan for at least twenty-four
 28 (24) consecutive months beginning on the day after the last day of
 29 the taxable year in which the taxpayer first offers the health benefit
 30 plan.

31 **(b)** If the taxpayer terminates the health benefit plan before the
 32 expiration of the period required under subsection (a), the
 33 taxpayer shall repay the department the amount of the credit
 34 received under section 9 of this chapter.

35 **Sec. 15. (a)** An employee of a taxpayer that claims a credit under
 36 this chapter shall include in the employee's state adjusted gross
 37 income (as defined in IC 6-3-1-3.5(a)) the employee's eligible
 38 benefits for:

39 (1) the first taxable year in which the taxpayer offers the
 40 health benefit plan; and

41 (2) the taxable year immediately following the first taxable
 42 year in which the taxpayer offers the health benefit plan.

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1 An employee's eligible benefits are not included in the employee's
 2 state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the
 3 taxable years following the taxable year described in subdivision
 4 (2).

5 (b) A taxpayer that claims a credit under this chapter shall
 6 notify each of the taxpayer's employees of the amount included in
 7 the employee's state adjusted gross income (as defined in
 8 IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer
 9 provides the employee with the employee's W-2 federal income tax
 10 withholding statement for the taxable year.

11 SECTION 3. IC 27-8-15-31 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 31. (a) If an eligible
 13 employee who has been continuously covered under a health insurance
 14 plan for at least ninety (90) days:

15 (1) loses coverage under the plan as the result of:

16 (A) termination of employment;

17 (B) reduction of hours;

18 (C) marriage dissolution; or

19 (D) attainment of any age specified in the plan; and

20 (2) requests a conversion policy from the small employer insurer
 21 that insured the health insurance plan;

22 the individual is entitled to receive a conversion policy from the small
 23 employer insurer.

24 (b) If an eligible employee's dependent who has been
 25 continuously covered under a health insurance plan for at least
 26 ninety (90) days:

27 (1) loses coverage under the plan as the result of:

28 (A) marriage dissolution; or

29 (B) attainment of any age specified in the plan; and

30 (2) requests a conversion policy from the small employer
 31 insurer that insured the health insurance plan;

32 the individual is entitled to receive a conversion policy from the
 33 small employer insurer.

34 (c) A request under subsection (a)(2) or (b)(2) must be made within
 35 thirty (30) days after the individual loses coverage under the health
 36 insurance plan.

37 ~~(c)~~ (d) The premium for a conversion policy issued under this
 38 section shall not exceed one hundred fifty percent (150%) of the rate
 39 that would have been charged under the small employer health
 40 insurance plan with respect to the individual if the individual had been
 41 covered as an eligible employee under the plan during the same period.
 42 If the health insurance plan under which the individual was covered is

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1 canceled or is not renewed, the rates shall be based on the rate that
 2 would have been charged with respect to the individual if the plan had
 3 continued in force, as determined by the small employer insurer in
 4 accordance with standard actuarial principles.

5 ~~(d)~~ (e) A conversion policy issued under this section must be
 6 approved by the insurance commissioner as described in IC 27-8-5-1.
 7 The commissioner may not approve a conversion policy unless the
 8 policy and its benefits are:

- 9 (1) comparable to those required under IC 27-13-1-4(a)(2)
 10 through IC 27-13-1-4(a)(5);
 11 (2) reasonable in relation to the premium charged; and
 12 (3) in compliance with IC 27-8-6-1.

13 If the benefit limits of the conversion policy are not more than the
 14 benefit limits of the small employer's health insurance plan, the small
 15 employer insurer shall credit the individual with any waiting period,
 16 deductible, or coinsurance credited to the individual under the small
 17 employer's health insurance plan.

18 ~~(e)~~ (f) This section expires on the effective date of a mechanism
 19 enacted by the general assembly to offset the potential fiscal impact on
 20 small employers and small employer insurers that results from the
 21 establishment of a continuation policy under section 31.1 of this
 22 chapter.

23 **SECTION 4. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as**
 24 **amended by this act, applies only to taxable years beginning after**
 25 **December 31, 2004.**

26 **SECTION 5. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added**
 27 **by this act, applies only to taxable years that begin after December**
 28 **31, 2004.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 484, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 484 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 484, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

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This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,

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subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed

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or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the

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same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The

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maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

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(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or

(2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

(2) IC 6-5.5 (financial institutions tax); and

(3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

(1) has state tax liability; and

(2) employs at least ten (10) full-time employees who are located in Indiana.

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Sec. 9. (a) An eligible taxpayer that, after December 31, 2004, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.
- (b) The credit allowed under this chapter equals the lesser of:
 - (1) two thousand five hundred dollars (\$2,500); or
 - (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a

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taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1)** the first taxable year in which the taxpayer offers the health benefit plan; and
- (2)** the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 2, after line 37, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2004.

SECTION 5. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added by this act, applies only to taxable years that begin after December 31, 2004."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 484 as printed January 30, 2004.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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